

Minutes of the 103rd meeting of the Board of the EHRC

26 May 2022 (09:30-13:00)
Windsor House, London

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Attending

Commissioners

Baroness Kishwer Falkner (Chairwoman); Caroline Waters (Deputy Chair); Eryl Besse; Jessica Butcher (V); David Goodhart (V); Helen Mahy; Dr Lesley Sawers (V) and Su-Mei Thompson (V).

Officers

Marcial Boo, Chief Executive Officer
Ben Coates, Chief of Staff
Joe Corcos, Director, People and Infrastructure (item 8) (V)
Megan Cruickshank, Senior Associate, Corporate Governance
Cath Denholm, Chief Operating Officer
Melanie Field, Chief Strategy and Policy Officer
Jackie Killeen, Director, Regulation (V)
Bill Malloy, Director, Planning, Performance and Governance (item 7)
Luke Taylor, Director Strategy, Evidence and Three Nations (Item 8)
Sarah Whelan, Principal, Corporate Governance

Guests

Charles Ramsden, Government Equalities Office (GEO)

Observing:

Pranali Dhumal, Senior Associate, Governance & Wales Committee Support

1. Chairwoman's welcome and apologies.

- 1.1 The Chairwoman welcomed attendees. Apologies for absence were received from Commissioners Akua Reindorf and Alasdair Henderson.

2. Declarations of interest

- 2.1 No declarations of interest were received.

3. Minutes of the 102nd Board meeting (EHRC 103.01)

- 3.1 The Board approved the minutes of the meeting of 22 March as an accurate record.

4. Actions arising (EHRC 103.02)

- 4.1 The Board reviewed and approved the actions log. Updates were received on work underway to ensure public sector organisations have accessible websites, and on the inquiry report into low-paid ethnic minority workers in health and social care. The Board were advised that an update on reviewing the Commission's statutory Code of Practice on Services, Public Functions and Associations will be brought to the 30 June Board meeting.

5. Committee / Commissioner Working Group (CWG) updates

- 5.1 The Scotland Commissioner advised that senior executives had given evidence on 17 May to the Equalities, Human Rights and Civil Justice Committee at the Scottish Parliament on the Gender Recognition Reform Bill. Feedback had been broadly positive. The Commission would continue to consider the cross-border implications of the proposals and write to relevant parliamentarians as appropriate. She had also met Scottish Ministers on the implications of the proposed Bill of Rights. Finally, she reported that the next Scotland Committee meeting would discuss its way of working, the recruitment of new members, and links with the Wales Committee.
- 5.2 The Wales Commissioner advised that her Committee is currently recruiting new members and that, at its last meeting, the Committee discussed strengthening human rights and the new justice system in Wales, including the Human Rights Wales Bill. The Committee also noted that there were no Welsh cases yet taken up by the Commission's race legal fund.
- 5.3 The Chair of the Audit and Risk Assurance Committee (ARAC) stated that her Committee had met to discuss the draft Annual Report and Accounts (ARA) for 2020-21. The final draft will come to the 30 June Board meeting and laid in Parliament in July. It was agreed that, following approval at the June Board meeting, the final sign off of the Commission's 2021-22 Annual Report and Accounts would be delegated to the CEO and Chairwoman, on the advice of the Chair of ARAC.
- 5.4 The Chair of the Commissioner Working Group on Human Rights Monitoring advised that her Group is finalising the Commission's statement of compliance for submission to the formal National Human Rights Institutions (NHRI) reaccreditation hearing in October. The statement will cover all the key issues required, including our independence, autonomy and compliance with the Paris Principles. It was agreed that the statement should acknowledge that the Commission is yet to receive confirmation from the UK Government of its budget. The Chairwoman has asked to meet a Cabinet Office Minister to discuss this and is still awaiting a meeting date.

Action: Government Equalities Office (GEO) to follow up on Cabinet Office meeting and update the Chairwoman and Chief Executive.

- 5.5 The Chair of the Commissioner Working Group on Is Britain Fairer advised that his Group met the Learning and Work Institute to discuss disability in the gig economy. Work is underway on the 'Is Britain Fairer' report and a change of name for the report was suggested. It was agreed that this would be brought to the Board's 30 June meeting for agreement.

Action: Working Group to provide an update at the 30 June meeting.

6. CEO Report & Chairwoman's update (EHRC 103.03, plus annexes and appendices)

6.1 Commissioners thanked the Chief Executive for the helpful paper. The Board approved:

- a) the extension to the terms of office of the ARAC independent members;
- b) the revised ARAC Terms of Reference; and
- c) the proposal to move the Commission's office in Glasgow first to temporary and then to permanent accommodation along the lines proposed in the paper.

6.2. The Board discussed the Commission's proposed equality objectives, suggesting changes to the wording. They gave delegated authority for the final version to be approved by the Chairwoman and Chief Executive.

Action: Chief Strategy and Policy Officer to revise the equality objectives and seek approval from the Chairwoman and Chief Executive.

6.3 The Deputy Chair welcomed the information on the regulatory and legal work being undertaken and encouraged the executive to take the work forward faster where possible.

6.4. The Scotland Commissioner asked about forthcoming Commission guidance on artificial intelligence and the Public Sector Equality Duty. She was assured that this work was nearing completion, and that the Commission had consulted relevant stakeholders, including in Scotland. Board members would see the guidance before publication.

Action: Director of Regulation to bring the draft guide to the July Board meeting.

6.5 The Chair of the Commissioner Working Group on Is Britain Fairer noted that a complaint had been received about the Commission's previous research on racism in higher education. This is being dealt with through the complaints procedure. It was agreed that all Commission's research should be methodologically robust and able to withstand academic challenge.

6.6 Commissioners requested further detail on the Online Safety Bill and were advised the Board would have an opportunity to discuss the Bill and its implications at a voluntary roundtable to be held on 13 June.

6.8 Commissioners were reminded that there would be a workshop in July with representatives from disabled people's organisations, including former members of the Disability Advisory Committee. An update on the Commission's approach to stakeholder engagement will come to the 30 June Board meeting.

- 6.9 The Chairwoman informed the Board that Michelle Donelan MP, Minister of State for Higher and Further Education, had written, following their meeting, regarding concerns about anti-Semitism at the NUS.
- 6.10 The Board discussed work on climate change in the context of the Commission's strategic plan and remit. It was agreed that the Board's People and Workspaces Committee would continue to oversee appropriate steps to reduce the Commission's carbon footprint. Any other work on environmental issues would be undertaken within the Commission's agreed strategic objectives. The Chairwoman and Chair of ARAC reminded the Board of their relevant declaration of interests.
- 6.11 The Chairwoman requested that the heating and cooling system for the London office is reviewed.

Action: Infrastructure team to investigate and report back.

- 6.12 The Chairwoman informed the Board that the Minister for Women and Equalities has recently agreed that the Commission, in the person of its Chair, should have delegated authority to make decisions related to exemptions to the need to disclose information under the Freedom of Information Act.

Action: Information governance team to ensure the Chairwoman has the information she needs to discharge this duty.

- 6.13 The Chairwoman advised she had recently met Lisa Mackenzie of Murray Blackburn and that she would shortly brief the Chair of the Scotland Committee on the detail.

Action: Private Office to arrange meeting with the Chairwoman and the Scotland Committee Chair.

7. Revised approach to recording and reporting risk at the Commission: (EHRC 103.04 plus annexes)

- 7.1 The Board discussed the Commission's proposed approach to risk management. They agreed it was an excellent, clear approach, allowing discussion at the right level. The risk summary diagram was judged particularly helpful.
- 7.2 Commissioners received assurance that the risk register is a dynamic management tool and that it will be updated regularly.
- 7.3 Commissioners suggested further consideration of the following risks: data breaches by staff, financial and budgeting risks, NHRI accreditation, and our handling of sensitive policy issues.

Action: Programme team and ARAC to take forward suggestions.

8. Strategic priorities discussion 1:

8.1 Strategic priority: Equality in a changing workplace: (EHRC 103.05; 103.06; 103.06a & 103.06b)

- 8.1.1 The Board welcomed the paper and provided the following observations:
- a) To include mention of the government's levelling up agenda, cost of living and economic status as background context;
 - b) To ensure that the evidence base for statements was robust;
 - c) To review sex, race and disability discrimination tribunal cases on a quarterly basis, or to link with organisations who collect such data, so that we were aware of emerging issues;
 - d) To note how the numbers of cases brought to tribunal changed over time, including after fees were raised;
 - e) To be clear on the purpose of data collection and to encourage the referral of cases that the Commission can support;
 - f) To review the effectiveness of pay gap reporting;
 - g) To recognise that some organisations are adopting new working practices and may need guidance from the Commission on hybrid working or other diversity issues; and
 - h) To brief the Chairwoman on a new organisation, 'Black Equity Organisation' (BEO), interested in taking on race discrimination cases in collaboration with the Commission.

Action: Private office to set up a meeting with BEO and the Chairwoman.

Action: Senior Responsible Officer (People Director) to take forward Board's input.

8.2 Strategic priority: Upholding rights and equality in health and social care. (EHRC 103.05; 103.07; 103.07a & 103.07b)

- 8.2.1 The Board noted that this is a large area of work and asked whether the Commission's programme could be more focused. The Board noted the range of organisations looking at health inequalities, and noted the difference between inequalities in health outcomes and inequalities in access to healthcare. There was agreement that the first and second proposed workstreams were good, but that the third on tackling inequalities in access to health services needed further refining.

- 8.3 The Board requested that future papers on strategic priorities should include: text boxes with the relevant legislation; risk analyses; recommendations; delivery activities; and timelines.

Action: Senior Responsible Officer (Strategy Director) to take forward the Board's input.

9. Any other business.

- 9.1 The Chairwoman asked the representative at GEO for an update on recruitment for three new Commissioners, one of whom may be a Deputy Chair. GEO advised that recruitment starts soon, with the likely closing date for applications in early July. Interviews will be early September, with a view to having one Commissioner in place by November.

Action: GEO representative to share advert with Commissioners when ready. Governance Team to take forward

- 9.2 The Chairwoman advised that the next Board meeting would be held virtually on 30 June.